

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

EDGAR M. TORRED; MARILOU I. TORRED;

2:08-cv-1830-LDG-LRL

## Plaintiffs,

## ORDER

V.

WMC MORTGAGE CORP., et al.,

## Defendants.

Defendant WMC Mortgage Corp. (“WMC”) has filed an unopposed motion to dismiss pursuant to Rule 12(b)(6) (#20), and Defendant Safeguard Properties, Inc. (“Safeguard”) has joined in WMC’s motion (#21). *See* Fed. R. Civ. P. 12(b)(6). A motion to dismiss under Rule 12(b)(6) will only be granted if the complaint fails to “state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Plaintiffs’ first and second causes of action allege violations of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602 et seq. (“HOEPA”), and the Nevada Unfair Lending Practices Act (“NULPA”), Nev. Rev. Stat. § 598D.100. Plaintiffs’ HOEPA claims must fail, however, because Plaintiffs failed to bring suit within the statutorily permissible period for such claims. *See* 15 U.S.C. 1680(e); 1635(f). Likewise, Plaintiffs’ NULPA claims must fail under the jurisprudential doctrine disfavoring retroactive application of legislation. *See, e.g., Scott v. Boos*, 215 F.3d 940, 943 (9th Cir. 2000).

1 Plaintiffs' third and fourth causes of action allege breaches of an implied covenant of good faith  
2 and unfair dealing, and various fiduciary duties. Plaintiffs, however, have failed to state any  
3 plausible claim regarding the breach of any duty. Finally, as Plaintiffs' complaint fails to state  
4 substantive claims against either WMC or Safeguard, Plaintiffs' cause of action for declaratory  
5 judgment cannot be sustained, and their punitive damages prayer must be stricken. Accordingly,

6 THE COURT HEREBY ORDERS that WMC's motion to dismiss (#20) is GRANTED.

7 THE COURT FURTHER OTHERS that Safeguard's motion to dismiss (#21) is  
8 GRANTED.

10 Dated this 20 day of October, 2010.

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Lloyd D. George  
United States District Judge

